



DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG-2021-0332]

RIN 1625-AA09

Drawbridge Operation Regulation; Indiana Harbor Canal, East Chicago, IN

AGENCY: Coast Guard, Department of Homeland Security (DHS).

ACTION: Final rule.

SUMMARY: The Coast Guard is altering the operating schedule that governs the Indianapolis Boulevard Bridge, mile 2.59, over the Indiana Harbor Canal at East Chicago, Indiana. Indiana Department of Transportation, the owner and operator of the bridge, has requested to stop continual drawtender service to the bridge due to a lack of openings.

DATES: This rule is effective [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to <https://www.regulations.gov>. Type USCG-2021-0332 in the “SEARCH” box and click “SEARCH.” In the Document Type column, select “Supporting & Related Material.”

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or e-mail: Mr. Lee D. Soule, Bridge Management Specialist, Ninth Coast Guard District; telephone 216-902-6085, e-mail Lee.D.Soule@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR	Code of Federal Regulations
DHS	Department of Homeland Security
FR	Federal Register
IGLD85	International Great Lakes Datum of 1985
INDOT	Indiana Department of Transportation
LWD	Low Water Datum based on IGLD85
OMB	Office of Management and Budget
NPRM	Notice of proposed rulemaking
§	Section
USACE	United States Army Corps of Engineers
U.S.C.	United States Code
USEPA	United States Environmental Protection Agency

II. Background Information and Regulatory History

On July 28, 2021, the Coast Guard published a notice of proposed rulemaking (NPRM) entitled “Drawbridge Operation Regulation; Indiana Harbor Canal, East Chicago, IN,” in the Federal Register (86 FR 40388). There we stated why we issued the NPRM, and invited comments on our proposed regulatory action related to this regulatory change. During the comment period that ended on September 27, 2021, we did not receive any comments.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority 33 U.S.C. 499. The Indianapolis Boulevard Bridge, mile 2.59, over the Indiana Harbor Canal is a double leaf bascule bridge that provides a horizontal clearance of 68-feet and a vertical clearance of 12-feet in the closed position with an unlimited vertical clearance in the open position based on low water datum (LWD). The Indianapolis Boulevard Bridge, mile 2.59, over the Indiana Harbor Canal is required to open on signal, and there are no previous rulemakings for this bridge to discuss. The Indiana Harbor Canal is a 3-mile long commercial waterway that serves several industries near the City of East Chicago, Indiana, including the largest integrated steelmaking facility in North America and the 1,400 acre Whiting Refinery that includes the site of the former 1889 Standard Oil of Indiana refinery at the head of navigation. The Indianapolis Boulevard Bridge, mile 2.59,

over the Indiana Harbor Canal is the last drawbridge before the head of navigation. Once the 1889 Standard Oil of Indiana refinery was torn down the bridge lost its purpose for regular openings, and the waterway silted in around the bridge preventing vessels from approaching. Approximately thirty years after the removal of the refinery, the U.S. Environmental Protection Agency (EPA) and the U.S. Army Corps of Engineers (USACE) partnered to remove polluted sediments from the waterway and established a contaminated dredge spoils area above the bridge. The EPA and USACE contracted a dredging company that is working a few weeks each season and is the only commercial vessel requesting the bridge to open. There are no records of recreational vessels using the Indiana Harbor Canal.

IV. Discussion of Comments, Changes and the Final Rule

The Coast Guard provided a comment period of 60 days and no comments were received.

V. Regulatory Analyses

We developed this rule after considering numerous statutes and Executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive orders, and we discuss First Amendment rights of protesters.

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. This rule has not been designated a “significant regulatory action,” under Executive Order 12866. Accordingly, it has not been reviewed by the Office of Management and Budget (OMB).

This regulatory action determination is based on the ability that vessels can still transit the bridge given advanced notice.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard did not receive any comments from the Small Business Administration on this rule. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

While some owners or operators of vessels intending to transit the bridge may be small entities, for the reasons stated in section V. A above, this rule will not have a significant economic impact on any vessel owner or operator.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the FOR FURTHER INFORMATION CONTACT section.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency’s responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

C. Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

D. Federalism and Indian Tribal Government

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, this rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

F. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023-01, Rev.1, associated implementing instructions, and Environmental Planning Policy COMDTINST 5090.1 (series) which guide the Coast Guard in

complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f). The Coast Guard has determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule promulgates the operating regulations or procedures for drawbridges and is categorically excluded from further review, under paragraph L49, of Chapter 3, Table3-1 of the U.S. Coast Guard Environmental Planning Implementation Procedures.

Neither a Record of Environmental Consideration nor a Memorandum for the Record are required for this rule.

G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the FOR FURTHER INFORMATION CONTACT section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

List of Subjects in 33 CFR Part 117
Bridges.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 33 CFR 1.05-1; and Department of Homeland Security Delegation No. 0170.1.

2. In § 117.400, add paragraph (c) to read as follows:

§ 117.400 Indiana Harbor Canal.

(c) The Indianapolis Boulevard Bridge, mile 2.59, at East Chicago, shall open on signal if

at least twelve hours' notice is given.

M. J. Johnston.

Rear Admiral, U.S. Coast Guard,

Commander, Ninth Coast Guard District.

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